

Message Text

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FM AMEMBASSY CARACAS

TO SECSTATE WASHDC 9684

INFO AMEMBASSY LONDON

C O N F I D E N T I A L CARACAS 7993

E.O. 11652: GDS

TAGS: ENRG, EINV, VE, US

SUBJECT: PETROLEUM ROYALTY HOLDINGS

REF STATE 177721

1. WITHOUT CONSULTING ANY LOCAL AUTHORITY, WE READ ARTICLE 18 OF THE DRAFT LEGISLATION ON PETROLEUM NATIONALIZATION AS POSSIBLY APPLICABLE TO THE PROBLEM OF "OVERRIDING ROYALTY RIGHTS." IT PROVIDES THAT WITH THE EXCEPTION OF CERTAIN LABOR BENEFITS, "THE STATE--WILL ASSUME NO OBLIGATION FOR LIABILITIES WHICH THE CONCESSIONARIES HAVE WITH THIRD PARTIES, IN OR OUTSIDE THE COUNTRY." ROYALTY RIGHTS MIGHT REASONABLY BE COMPREHENDED WITHIN SUCH "LIABILITIES."

2. IN ANY CASE, THE CONCESSIONS ARE TO BE EXTINGUISHED WITHOUT COMPENSATION AT THE END OF 120 DAYS AFTER THE LAW IS PROMULGATED. THE ROYALTY RIGHTS ARISE FROM THE GRANTING OF SOME OF THESE VERY SAME CONCESSIONS. LOGICALLY THEY TOO THEN ARE "EXTINGUISHED" BY THE SAME PROCESS. FURTHER, AS A PRACTICAL MATTER, IT WOULD NOT APPEAR POLITICALLY FEASIBLE FOR THE GOV TO DENY COMPENSATION TO THE COMPANIES FOR "OIL IN THE GROUND" AND PAY IT TO THE ROYALTY HOLDERS. WE CONSEQUENTLY AGREE WITH THE DEPARTMENT THAT THE SAME ISSUES ARE INVOLVED HERE AS IN THE CANCELLATIONS OF THE CONCESSIONS.

3. ACCORDING TO THE BRITISH AMBASSADOR HMG HAS MADE
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NO REPRESENTATIONS TO THE GOV ON THIS ISSUE. HE BELIEVES

THE FCO MAY HAVE SUGGESTED THAT ULTRAMAR WRITE A LETTER OF INQUIRY TO THE VENEZUELAN AMBASSADOR IN LONDON, BUT KNOWS OF NO OTHER ACTION TAKEN BY HIS GOVT IN THE MATTER. IT IS HIS RECOLLECTION THAT THE FCO CONSIDERED THE PROBLEM TO BE MOST "DELICATE" AND THOUGHT IT BEST NOT TO FOCUS GOV ATTENTION ON IT BEFORE FINAL CONGRESSIONAL ACTION IN THE FEAR THAT A SPECIFIC CLAUSE IN THE LEGISLATION ON ROYALTY RIGHTS WOULD RESULT. HE IS SEEKING A CURRENT READING FROM LONDON ON HMG'S VIEWS AND ON HOW THE PROBLEM STANDS THERE. HE WILL BE IN TOUCH WITH ME AS SOON AS THAT READING IS AVAILABLE.

4. THE ATTITUDE OF THE GOV ON COMPENSATION FOR CONCESSION RIGHTS IS VERY CLEAR: THERE WILL BE NONE. IT IS TRUE, HOWEVER, THAT THE COMPANIES COULD REGARD IN SOME INSTANCES (AND SO CLAIM FOR TAX PURPOSES) PAYMENTS COVERING FUTURE SERVICE CONTRACTS AND THE LIKE AS INCLUDING SOME DEGREE OF COMPENSATION FOR THE DENIAL OF THEIR RIGHT TO FUTURE EXPLOITATION OF THE CONCESSIONS. WE ARE NOT ABLE TO SAY WHAT EFFECT THAT WOULD HAVE ON THE POSITION OF THE ROYALTY HOLDERS BUT POINT IT OUT AS AN ADDITIONAL COMPLICATING FACTOR.

5. FINALLY, IT IS WORTH NOTING THAT PROMINENT VENEZUELAN ARE INCLUDED AMONG THE ROYALTY HOLDERS. WE WOULD WISH TO KNOW THEIR INTENTIONS BEFORE RESPONDING DEFINITELY TO THE ULTRAMAR REQUEST.

SHLAUDEMAN

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